

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

RICHARD W. NOBLE,

Respondent,

v.

LINDA L. NOBLE,

Appellant.

DOCKET NUMBER WD77476

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 10, 2015

APPEAL FROM

The Circuit Court of Platte County, Missouri
The Honorable Gerald D. McBeth, Judge

JUDGES

Division Two: Gabbert, P.J., and Ellis and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Scott L. Campbell
Platte City, MO

Attorney for Respondent Richard W. Noble,

Robert H. Shaw
Platte City, MO

Attorney for Respondents Arn, LLC, et al.,

Louis J. Wade
Kansas City, MO

Attorney for Appellant Linda L. Noble.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

RICHARD W. NOBLE,

Respondent,

v.

LINDA L. NOBLE,

Appellant.

OPINION FILED:

March 10, 2015

WD77476

Platte County

Before Division Two Judges:

Anthony Rex Gabbert, Presiding Judge, and Joseph M. Ellis and Karen King Mitchell, Judges

Linda L. Noble (Wife) appeals the trial court's judgment, which quashed several garnishments Wife sought in aid of executing a monetary judgment against Richard W. Noble (Husband) and awarded Husband attorney's fees in the amount of \$2,500. Because the trial court's basis for granting the motion to quash was erroneous and there is no alternative basis for affirming, we reverse its ruling as to both the motion to quash and the award of attorney's fees.

REVERSED AND REMANDED.

Division Two holds:

1. Appeal of quashed or expired garnishments, though moot, would be decided on the merits. Due to the limited time frame of garnishment viability, the case falls within the public-interest exception to the mootness doctrine.
2. Where a judgment is ambiguous, uncertain, or incomplete, an appellate court may properly look to the contemporaneous oral statement of the judge, in so far as the same may throw light upon the view the court took of the case during its progress and at the time of its judgment.

3. To be enforceable by execution, a money judgment must specify with certainty the amount for which it is rendered, or if the amount is not stated, it must be ascertainable from the record.
4. If, however, a judgment lacks pristine specificity, but it can be made certain by a motion and hearing to determine the exact amounts due by ministerial computation or evidence, the judgment upon being reduced to certainty, is sufficiently certain and definite so as to be enforceable.
5. If there is an inconsistency between the recitals and the decretal part of a judgment, an express adjudication controls mere recitals.
6. Attorney's fees are typically recoverable only when a statute specifically authorizes recovery or when attorney's fees are provided for by contract.
7. Though there is authority for awarding attorney's fees to a *garnishee*, there is no authority providing for attorney's fees to the *judgment debtor* in the garnishment context.
8. A garnishee is not entitled to costs or attorney's fees when it abandons its neutrality and goes beyond costs normally attending such garnishment.
9. Where a garnishee engages in conduct beyond mere attendance, such as claiming exemptions for the debtor, contesting denials of its answer, and denying the jurisdiction of the court, the garnishee can no longer be classified as a mere stakeholder but becomes a litigant and is no longer entitled to attorney's fees or costs and expenses, even if its position prevails.

Opinion by: Karen King Mitchell, Judge

March 10, 2015

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